

Message Text

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ACTION SCSE-00

INFO OCT-01 ARA-10 ISO-00 SCA-01 CAB-05 CIAE-00 COME-00

DODE-00 DOTE-00 EB-08 INR-07 NSAE-00 FAA-00 L-03 SS-15

NSC-05 SP-02 PM-04 /061 W

-----090224Z 079448 /63

R 082335Z MAR 77

FM AMEMBASSY MEXICO

TO SECSTATE WASHDC 769

INFO ALL CONSULAR POSTS IN MEXICO UNN

UNCLAS SECTION 1 OF 2 MEXICO 2876

E.O. 11652: N/A

TAGS: CPRS, MX

SUBJ: RETURN OF AIRCRAFT IN CUSTODY OF MEXICAN ATTORNEY GENERAL

REF: LOU MEXICO 2811

1. SUMMARY: IN ORDER TO DEMONSTRATE HIS KEEN INTEREST IN RETURNING AIRCRAFT TO US OWNERS, THE ATTORNEY GENERAL REQUESTED THE ASSISTANCE OF THE EMBASSY AND CONSULATE GENERAL IN CIUDAD JUAREZ IN RETURNING AN AIRPLANE LOCATED IN CHIHUAHUA. THE MANNER IN WHICH THE CASE WAS HANDLED AND THE HIGH LEVEL TREATMENT IT RECEIVED IS WORTHY OF NOTE. THIS IS THE FIRST CASE PROCESSED UNDER THE NEW PROCEDURES ESTABLISHED BY THE ATTORNEY GENERAL FOR THE RETURN OF AIRCRAFT TO US OWNERS. THE TOTAL IMPLICATIONS OF THIS TRANSFER NEED FURTHER STUDY, BUT AT THE VERY LEAST IT IS CLEAR THAT IN FUTURE CASES A GREATER PARTICIPATION BY EMBASSY AND CONSULAR OFFICERS IN THE PHYSICAL TRANSFER OF CUSTODY OF THE AIRCRAFT AND THE PLANE'S SUBSEQUENT RETURN OF THE UNITED STATES WILL BE REQUIRED.
END SUMMARY.

2. ON WEDNESDAY, MARCH 2, CONSUL GENERAL MCANINCH

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RECEIVED A CALL FROM DEPUTY ATTORNEY GENERAL LIC.

SAMUEL ALBA LEYVA STATING THAT THE AG'S OFFICE WISHES

TO DEMONSTRATE ITS GOOD FAITH BY RETURNING AN AIRPLANE

LOCATED IN CHIHUAHUA AND UNDER THE CONTROL OF THE AGENTE

DEL MINISTERIO PUBLICO. FEBORE THE CONSUL GENERAL COULD

FINISH CONSULTING WITH THE CONSULAR SECTION, THE DEPUTY

ATTORNEY GENERAL CALLED AGAIN TO SAY THAT THE AG WANTED

TO SPEAK WITH MR. MCANINCH. THE AG EXPOUNDED ON HIS DESIRE TO CUT THE RED TAPE SURROUNDING THE RETURN OF AIRCRAFT AND STATED THAT HE WANTED TO DELIVER THE PLANE IN CHIHUAHUA IMMEDIATELY.

3. BY THE AFTERNOON OF THE SAME DAY THE OWNER AND OUR CONSULATE GENERAL IN CIUDAD JUAREZ HAD BEEN CONTACTED, AND BY THE AFTERNOON OF THE FOLLOWING DAY THE OWNER AND HIS PILOT HAD ARRIVED IN CHIHUAHUA WITH A LETTER FROM THE CONSULATE GENERAL DESIGNATING THE OWNER AS THE INDIVIDUAL TO WHOM WE WISHED THE PLANE DELIVERED.

4. LATE FRIDAY AND OVER THE WEEKEND, THE CONSUL GENERAL, AND OTHER MEMBERS OF THE EMBASSY RECEIVED SEVERAL CALLS FROM THE AG'S OFFICE ASKING WHY THE PLANE HAD NOT LEFT THE COUNTRY. IT WAS NOT UNTIL MONDAY THAT WE WERE ABLE TO ASCERTAIN THAT THE OWNER HAD ENCOUNTERED SOME DIFFICULTY IN OBTAINING THE SIGNATURE OF A LOCAL GOVERNMENT OFFICIAL AND WAS UNABLE TO CONCLUDE HIS ARRANGEMENTS. WE WERE LATER INFORMED BY THE AG'S OFFICE THAT THE DEPARTURE HAD IN PART BEEN DELAYED BY WHAT THE MEXICANS TERMED "LACK OF US REPRESENTATION AT THE DELIVERY SITE". THEY STATED THAT THE OWNER HAD SHOWED UP TO COLLECT HIS PLANE ACCOMPANIED BY SEVERAL MEXICAN LAWYERS. THE AG AND HIS STAFF HAVE EMPHASIZED THAT THEY WISH TO ELIMINATE ENTIRELY DEALINGS WITH LAWYERS AND OTHER MIDDLEMEN, IN ORDER TO REDUCE THE OPPORTUNITIES FOR "MORDIDA" OR PAYOFFS. IN ORDER TO DEMONSTRATE THAT THIS WAS NOT JUST ANOTHER CASE OF UNCLASSIFIED

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BUREAUCRATIC DELAY, THE AG'S OFFICE ARRANGED TO HAVE ONE OF THEIR PILOTS FLY THE PLANE TO EL PASO WHERE IT WAS MET AND RECEIVED BY OUR CONSUL GENERAL IN CIUDAD JUAREZ, WHO TURNED IT OVER TO THE OWNER. AS A FURTHER CLARIFICATION OF HIS POSITION, THE AG HAS ISSUED INSTRUCTIONS THAT IN FUTURE CASES ALL AIRCRAFT MUST BE DELIVERED DIRECTLY TO A US REPRESENTATIVE WHO MUST ASSUME RESPONSIBILITY FOR THE AIRCRAFT'S DEPARTURE FROM MEXICO.

5. COMMENT: IT SHOULD BE NOTED THAT AT NO TIME DID THE AG'S OFFICE OR THE EMBASSY CONSIDER THIS A CASE SUITABLE FOR RECOVERY UNDER THE 1936 CONVENTION. THE PLANE HAD ENTERED MEXICO LEGALLY AND WITH THE OWNER'S KNOWLEDGE AND APPROVAL. THE OWNER STATED THAT IT WAS SUBSEQUENTLY SEIZED FEBRUARY 14 BY THE AUTHORITIES FOR "CLARIFICATION OF OWNERSHIP"; WHILE THE AUTHORITIES ALLEGED THAT THE OWNER HAD ATTEMPTED TO SELL THE AIRCRAFT IN VIOLATION OF MEXICAN CUSTOMS REGULATIONS. BECAUSE

OF THIS ALLEGED VIOLATION OF CUSTOMS REGULATIONS, THE ATTORNEY GENERAL WANTED THE EMBASSY TO ACCEPT CUSTODY OF THE AIRCRAFT IMMEDIATELY AND HAVE IT RETURNED TO THE U.S. HAD THE PLANE REMAINED LONGER IN MEXICO, CUSTOMS WOULD HAVE SEIZED IT AND THE MATTER WOULD HAVE BEEN OUT OF THE CONTROL OF THE AG'S OFFICE. THE EMBASSY MOVED AS SWIFTLY AS POSSIBLE TO AVOID PREJUDICING THE RETURN OF THE AIRCRAFT AND TO DEMONSTRATE OUR DESIRE TO COOPERATE FULLY WITH THE AG IN HIS EFFORTS TO EXPEDITE THE RECOVERY OF AIRCRAFT.

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6. WE HAVE REPORTED THIS CASE IN SOME DETAIL AS AN ILLUSTRATION OF THE MANNER IN WHICH THE AG WANTS TO OPERATE UNDER THE NEW PROCEDURES. HIS STAFF HAVE EMPHASIZED REPEATEDLY THE NEED TO MOVE AS QUICKLY AS POSSIBLE IN GETTING THE AIRCRAFT OUT OF MEXICO, IN ORDER TO AVOID JURISDICTIONAL PROBLEMS AND BUREAUCRATIC DELAYS THAT WOULD ARISE IF OTHER AGENCIES OF THE GOM BECOME INVOLVED IN THE CASE. THEY ARE EQUALLY INSISTENT UPON THE NEED TO DEAL DIRECTLY WITH EMBASSY (OR CONSULAR) REPRESENTATIVES ON AIRCRAFT CASES, AND TO EXCLUDE RIGIDLY ALL LAWYERS AND MIDDLEMEN FROM THE PROCESS.

7. IT IS OBVIOUS THAT THE NEW PROCEDURES POSED BY THE ATTORNEY GENERAL POSE SOME PROBLEMS FOR THE EMBASSY, AND THAT IT WILL BE DIFFICULT FOR US TO RESPOND IN EVERY CASE WITH THE SPEED WHICH THEY CONSIDER NECESSARY, OR THAT WE WILL BE ABLE TO HANDLE EACH CASE AS THEY REQUEST. HOWEVER, AFTER YEARS OF FRUSTRATION DEALING WITH THE

GLACIER-LIKE PROGRESS OF THE MEXICAN BUREAUCRACY IN
HANDLING OUR AIRCRAFT CLAIMS, WE ARE MOST RELUCTANT
TO APPEAR UNRESPONSIVE OR OVER-BUREAUCRATIC IN ASSISTING
WITH THE RETURN OF THE AIRCRAFT. THE AG'S STAFF HAVE
INFORMED THE EMBASSY THAT THEY ARE NOW PREPARED TO RETURN
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IMMEDIATELY 12 OUT OF THE 23 AIRCRAFT WHICH WE HAVE
CLAIMED OR AGREED TO ACCEPT ON THE BASIS OF DOCUMENTS
AVAILABLE IN THE EMBASSY. OUR EXPERIENCE IN WORKING
WITH THE AG'S OFFICE ON THE RECOVERY OF THESE 12 PENDING
CASES WILL PROVIDE A BETTER BASIS TO JUDGE THE WORK-
ABILITY OF THE NEW PROCEDURE.
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